IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

Stephen Michael Spoon,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 3:16-cv-672
	)	
OnMain Mortgage Services, Inc.	)	Jury Trial Demanded
a/k/a Springcastle Credit Funding Trust	)	
f/k/a Springleaf Mortgage Services, Inc.	)	
	)	
	)	
Defendant.	)	
	)	

COMPLAINT

INTRODUCTION

1. This is an action for damages against the Defendant for violations of the Fair Debt Collection Practices Act, 15 U.S.C. §§1692 et seq.

JURISDICTION

2. Subject matter jurisdiction in this Court is proper pursuant to 15 U.S.C. §1692k(d) and 28 U.S.C. §1331 (federal question jurisdiction).

3. This action arises out of violations of the Fair Debt Collection Practices Act, 15 U.S.C. §§1692 et seq. (hereafter referred to as "FDCPA") by Defendant, in its illegal efforts to collect a consumer debt.

4. Venue is proper in this District because the acts and transactions occurred here, Defendant transacts business here and Plaintiff resides here.

PARTIES AND PERSONAL JURISDICTION

5. The Plaintiff incorporates the allegations set forth in Paragraphs 1 through 4 above as if set forth fully herein.

6. Plaintiff, Stephen Michael Spoon, (hereafter referred to as "Plaintiff") is a resident of this State, District and Division who is authorized by law to bring this action.

7. Defendant, OneMain Mortgage Services, Inc. (hereafter referred to as "Defendant") is a "debt collector" as defined by 15 U.S.C. §1692a(6), and a for-profit corporation organized in Delaware, with its principal office located at Corporate Licensing, 601 NW 2nd Street, Evansville, IN 47708-1013 and maintains CT Corporation System, 800 South Gay Street, Suite 2021, Knoxville, TN 37929-9710 as its registered agent for service of process.

8. Other defendants may be discovered in the course of litigation, and Plaintiff respectfully prays that the Court will permit the addition of later discovered parties upon motion.

FACTUAL ALLEGATIONS

9. The Plaintiff incorporates the allegations set forth in Paragraphs 1 through 8 above as if set forth fully herein.

10. Defendant alleges Plaintiff incurred an obligation to pay money arising out of a transaction in which money, property, insurance or services which are the subject of the transaction are primarily for personal family or household purposes, and is therefore a "debt" as that term is defined by 15 U.S.C. §1692a(5).

11. Specifically, Plaintiff previously had a financial obligation to Household Financial Center, Inc. dated 9/4/2007 for $16,000.88, whereby Household Financial Center, Inc. obtained a Trust Deed on real property located at 1141 Brushy Valley Road, Heiskell, TN 37754.

12. Upon information and belief, HSBC Finance Corporation, f/k/a Household Financial Center, Inc. assigned its interests to Springcastle Funding Trust.

13. Upon information and belief, and according to the records of the Secretary of State for Tennessee, in October 2016 Springleaf Financial Services, Inc. changed its name to OneMain Financial Services, Inc. and at the same time Springleaf Mortgage Services, Inc. change its name to OneMain Mortgage Services, Inc.

14. Plaintiff made payments on the loan until the real property located at 1141 Brushy Valley Road, Heiskell, TN 37754 was sold at a short sale in August 2013.

15. Defendant, as part of the short sale agreement, accepted $2,500.00 to released the trust deed recorded on 9/13/2007 at Book 1463, page 239-246 of the Anderson County Register of Deeds, and agreed "that upon posting of the agreed upon Short Sale amount, the remaining loan balance, if any, will be charged off and no additional payment will be required. Further, Defendant, as part of the short sale agreement stated "a $0.00 balance will appear on the Customer's file with the credit bureau as "Account legally paid in full for less than the full balance.'" See Short Sale Agreement as Exhibit 1.

16. On or about January 14, 2016, the defendant sent a letter to the plaintiff stating the principal balance for account 25534025 was $12,723.53 as of December 31, 2015. See Collection letter as Exhibit 2.

17. On March 24, 2016 the Plaintiff filed a chapter 13 bankruptcy. In the bankruptcy petition, the Plaintiff listed HSBC and Springleaf with a $0.00 balance for "Notice Only" as Springleaf had sent a letter dated January 14, 2016 showing a balance on this account as of December 31, 2015 of $12,723.53. See pages of bankruptcy petition noticing Defendant's former names and addresses as Exhibit 3 and the January 14, 2016 letter as Exhibit 4.

18. On May 9, 2016, the Defendant filed a proof of claim in the Plaintiff's bankruptcy case for $16,248.72 and attached as proof of the debt the Trust Deed, which Defendant had agreed to release in its Short Sale Agreement, the Loan Documents from September 4, 2007 and various corporate assignments. See proof of claim filed on May 9, 2016 as Exhibit 5.

CAUSES OF ACTION

COUNT I: FALSE REPRESENTATION AS TO THE CHARACTER AND AMOUNT OF THE DEBT IN VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT

19. The Plaintiff incorporates the allegations set forth in Paragraphs 1 through 17 above as if set forth fully herein.

20. The acts of Defendant constitute violations of the Fair Debt Collection Practices Act. Defendant's violations of the FDCPA include, but are not limited to, the false representation of the character and/or amount of the debt in violation of 15 U.S.C. § 1692e(2)(A).

21. The Defendant specifically waived the remaining balance on the loan when the Defendant fulfilled the terms of the Short Sale Agreement. By sending the Plaintiff the January 14, 2016 collection letter with a principal balance stated, the Defendant made a false representation on of the character and/or amount of the debt.

22. Further, the Defendant specifically waived the remaining balance on the loan when the Defendant fulfilled the terms of the Short Sale Agreement. By filing a proof of claim in the Plaintiff's bankruptcy asserting the Plaintiff owed Defendant any funds, but particularly $16,248.72 is a false representation on of the character and/or amount of the debt.

23. Defendant is attempting to collect a debt when it is not entitled to do so.

24. As a result of Defendant's actions, Plaintiff is entitled to an award of statutory damages, as well as an award of costs and attorney fees.

COUNT II: COLLECTING AN AMOUNT NOT PERMITTED BY LAW OR CONTRACT IN VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT

25. The Plaintiff incorporates the allegations set forth in Paragraphs 1 through 24 above as if set forth fully herein.

26. The act of Defendant constitutes a violation of the Fair Debt Collection Practices Act. Defendant's violations of the FDCPA include, but are not limited to, the collection of any amount unless such amount is expressly authorized by the agreement creating the debt or permitted by law in violation of 15 U.S.C. § 1692f(1).

27. The Defendant specifically waived the remaining balance on the loan when the Defendant fulfilled the terms of the Short Sale Agreement. By sending the January 14, 2016 letter asserting a balance remaining of $12,723.53 the Defendant is collecting an amount it is not expressly authorized by the short sale agreement to collect as the Defendant specifically waived the remaining balance of the loan.

28. Further, the Defendant specifically waived the remaining balance on the loan when the Defendant fulfilled the terms of the Short Sale Agreement. By filing a proof of claim

in the Plaintiff's bankruptcy asserting the Plaintiff owed Defendant $16, 248.72 the Defendant is collecting an amount it is not expressly authorized by the short sale agreement to collect as the Defendant specifically waived the remaining balance of the loan.

29. As a result of Defendant's actions, Plaintiff is entitled to an award of statutory damages, as well as an award of costs and attorney.

COUNT III: BREACH OF CONTRACT

30. The Plaintiff adopts the averments and allegations of paragraphs 1 through 29 hereinbefore as if fully set forth herein.

31. The Defendant entered a contract with Plaintiff on August 13, 2013 in the Short Sale Agreement whereby the Defendant agreed to "release the lien on the above listed property [1141 Brushy Valley Road, Heiskell, TN 37754-2813] for a minimum payment amount of $2,500.00."

32. The Plaintiff asserts that as of the filing of this complaint, the Defendant has not released the Trust Deed recorded on 9/13/2007 at Book 1463, page 239-246 of the Anderson County Register of Deeds.

33. As a result of the defendant's breach of the agreement between the parties, plaintiff has been damaged in that he has had to retain an attorney to seek the release of the Trust Deed in order to convey the warranted title to the buyers of the real property.

34. As a result of defendant's breach of the agreement to charge off the balance of the loan and not require a further balance to be owed by plaintiff has been damaged in that he will have to pay additional fees to an attorney to file an objection to the proof of claim in this bankruptcy case as this debt is not owed by the Plaintiff.

35. As a proximate consequence of said breach of contract the Plaintiff was made to suffer humiliation, anxiety, loss of sleep, anger, fright, and mental anguish for which he claims compensatory and punitive damages.

COUNT IV: DEFAMATION & LIABLE

36. The Plaintiff adopts the averments and allegations of paragraphs 1 through 35 hereinbefore as if fully set forth herein.

37. Defendant willfully, wantonly, recklessly and/or maliciously published and communicated false and defamatory statements regarding the Plaintiff to third parties and the public at large. Said statements harmed the Plaintiff's reputation, caused the Plaintiff mental anguish and emotional distress.

38. Said communication was false in that Plaintiff does not owe a debt to Defendant and Plaintiff did not owe the amount listed on the proof of claim.

39. At the time said communications were made, Defendant knew of or should have known, the falsity of the communication or recklessly disregarded the potential inaccuracy of the information, yet knowingly, willfully and maliciously communicated the falsity.

40. As a result of the intentional communication to the third parties of the false information, the Plaintiff was caused to suffer injury to his reputation in the eyes of the business community.

41. As a proximate consequence of said defamation, libel and slander, the Plaintiff was caused to endure collection activities and harassment by debt collectors and made to suffer humiliation, anxiety, loss of sleep, anger, fright, and mental anguish for which he claims compensatory and punitive damages.

COUNT V: NEGLIGENT TRAINING AND SUPERVISION

42. The Plaintiffs adopt the averments and allegations in paragraphs 1 through 41 hereinbefore as if fully set forth herein.

43. Defendant knew or should have known of its inadequate training and supervision. If Defendant had properly trained and supervised its employees, agents, and assigns, the conduct set forth herein which was directed at and visited upon the Plaintiff would not have occurred.

44. Defendant knew or should have known that the conduct of its employees, agents, and/or assigns was improper.

45. Defendant negligently failed to train and supervise its employees, agents, and/or assigns in order to prevent said improper conduct.

46. As a result of Defendant's negligence, the Plaintiff suffered humiliation, loss of sleep, anxiety, nervousness, physical sickness, physical and mental suffering, pain, and anguish.

COUNT VI: RECKLESS AND WANTON TRAINING AND SUPERVISION

47. The Plaintiffs adopt the averments and allegations of paragraphs 1 through 46 hereinbefore as if fully set forth herein.

48. Defendant knew or should have known of its inadequate training and supervision. If Defendant had properly trained and supervised its employees, agents, and assigns, the conduct set forth herein which was directed at and visited upon the Plaintiffs would not have occurred.

49. Defendant knew or should have known that the conduct of its employees, agents, and/or assigns was improper.

50. Defendant recklessly and wantonly failed to train and supervise its employees, agents, and/or assigns in order to prevent said improper conduct. As a result of the Defendant's

recklessness and wantonness, the Plaintiff suffered humiliation, loss of sleep, anxiety, nervousness, physical sickness, physical and mental suffering, pain, and anguish.

TRIAL BY JURY

51. The Plaintiff incorporates the allegations set forth in Paragraphs 1 through 50 above as if set forth fully herein.

52. Plaintiff is entitled to and hereby respectfully demands a trial by jury. US Const. Amend. 7. Fed.R.Civ.P. 38.

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF RESPECTFULLY PRAYS THAT JUDGMENT BE ENTERED AGAINST DEFENDANT(S) AND IN FAVOR OF PLAINTIFF AS FOLLOWS:

a) That Plaintiff be awarded actual damages pursuant to 15 U.S.C. §1692e(2)(A) in an amount to be determined at a trial by a jury;

b) That Plaintiff be awarded statutory damages pursuant to 15 U.S.C. § 1692f(1);

c) That Plaintiff be awarded the costs of litigation including a reasonable attorney fee pursuant to 15 U.S.C. §1692k(a)(3);

e) That Plaintiff be awarded actual and punitive damages for breach of contract, defamation and libel, the negligent, reckless and wanton training of its employees or assigns.

f) That the Court declare all defenses raised by Defendant(s) to be insufficient; and

g) That the Court grant such further and additional relief as is just in the circumstances.

Respectfully submitted this 29th day of November, 2016.

Stephen Michael Spoon

BY: /S/ Cynthia T. Lawson____

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